

Witek, Crosby, Lindsay, Chambers, and Pedersen. Senator Ashford.

SENATOR ASHFORD: Thank you, Senator Hall and members. First of all, let me say that I agree with Senator Pirsch that the problem of pornography is a problem in our society and it needs to be dealt with. I don't think anybody would argue that, and the examples that she gives of the pornographic, distribution of pornographic individuals...pornography to young citizens is a terrible blight on our society, but, and she asked me to support this motion, and I told her I would consider it, and I am trying to consider it. The problem I've got is that the bill, or the law as it exists today, is so patently unconstitutional as to be laughable, and let me tell you what I mean. First of all, it has been said on the floor today that there have been no cases prosecuted, or very few cases prosecuted under the act. That is a very telling point. In fact, if you read the statutes, the statute book, and go to 28-808, and look at it, you will see that there is absolutely no Supreme Court reported opinion on this law, and that means that there have been very few prosecutions and certainly no appeals. So Senator Hohenstein, I think, very timely said that the reason why there have been no prosecutions is because we created in 1977 a terribly vague piece of legislation that prosecutors are not using to prosecute. Therefore, what we've done by passing this law the first time is created a law that has no impact, has no affect, doesn't solve the problem. Senator Pirsch is right, we have a problem, but let's try to solve it specifically and directly, and then vote on a bill that can, in fact, address the problem. Senator Pirsch talked about the concealed weapon example, and I understand what she is trying to get at, the problem is that in this particular situation there is not a specific understandable, intelligible standard set in the statute to tell law enforcement or prosecutors when they should prosecute. It doesn't exist in the statute. Librarians do have an extremely important concern that has been raised by Senator Crosby. There have been no prosecutions of librarians, there have been no prosecutions of anybody else under this statute, but librarians could very easily be prosecuted under this statute. You have just got to read with me. It is just amazing to me that this statute actually passed in 1977. Under subsection (a), any picture, and I understand that Senator Pirsch is talking about pornographic pictures and photographs, and I understand that concern, but then it goes on to talk about sculptures or any similar visual representation or image of a person. Well, under